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| 10/053,527      | 01/18/2002  | Edmond Herschap III  | 5650-04801          | 1654             |

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Jeffrey C. Hood  
Meyertons, Hood, Kivlin, Kowert & Goetzel PC  
P.O. Box 398  
Austin, TX 78767-0398

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| EXAMINER |
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DURAN, ARTHUR D

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3622

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 01/05/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/053,527

Applicant(s)

HERSCHAP ET AL.

Examiner

Arthur Duran

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3622

**DETAILED ACTION**

1. Claims 1-14 have been examined.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-9, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Deaton (5,687,322).

Claim 1: Deaton discloses a method for conducting commerce, comprising the steps of:

interfacing with a potential user to receive information therefrom during a commercial transaction;

providing a commerce model of a commerce system that predicts as an output a defined commercial result as a function of information related to the user when in the commerce transaction and also as a function of inducements that can be provided to the user during the commerce transaction;

varying the inducement input to the commerce model to vary the predicted output of the commerce model in a predetermined manner until a desired predicted output of the commerce model is achieved; and

providing the varied inducement from the step of varying to the user during the commerce transaction (col 73, line 62-col 74, line 15; col 112, line 15-col 113, line 20; col 124, lines 10-35; col 73, line 13-col 75, line 27).

Art Unit: 3622

Claim 4: Deaton further discloses that the information related to the user comprises a history profile of the user stored in a database which is associated with the user and is accessed in response to the user being interfaced with (col 73, line 62-col 74, line 15; col 112, line 15-col 113, line 20; col 124, lines 10-35; col 73, line 13-col 75, line 27).

Claim 5: Deaton further discloses that the information related to the user comprises information received from the user that constitutes a parameter of the commercial transaction (col 73, line 62-col 74, line 15; col 112, line 15-col 113, line 20; col 124, lines 10-35; col 73, line 13-col 75, line 27).

Claim 6: Deaton further discloses that the step of varying comprises the step of optimizing the predicted output of the commerce model as a function of predetermined optimization criteria and wherein the step of providing the varied inducement comprises providing the optimized inducement to the user (col 73, line 62-col 74, line 15; col 112, line 15-col 113, line 20; col 124, lines 10-35; col 73, line 13-col 75, line 27).

Claim 7: Deaton further discloses that the step of varying operates in response to interfacing with a potential user and receiving information therefrom (col 73, line 62-col 74, line 15; col 112, line 15-col 113, line 20; col 124, lines 10-35; col 73, line 13-col 75, line 27).

Claim 8: Deaton further discloses that the commercial result comprises profit (col 34, lines 30-44; col 124, lines 45-55; col 74, line 50-col 75, line 6).

Claim 9: Deaton further discloses that the commercial result comprises market share (col 34, lines 30-44; col 105, lines 14-34).

Art Unit: 3622

Claim 12: Deaton further discloses completing the commerce transaction by the user (col 73, line 62-col 74, line 15; col 112, line 15-col 113, line 20; col 124, lines 10-35; col 73, line 13-col 75, line 27).

Claim 14: Deaton further discloses that the commerce transaction includes the step of verifying the financial information which comprises a portion of the received information from the user during the step of interfacing (Fig. 25; Fig. 26; col 73, line 62-col 74, line 15; col 112, line 15-col 113, line 20; col 124, lines 10-35; col 73, line 13-col 75, line 27).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 8, 9, 11,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deaton (5,687,322) in view of Herschap (20030028415).

Claim 2, 8, 9, 11: Deaton discloses the above. Deaton further discloses the utilization of POS, terminals, networks, remote terminals, remote POS terminals (Fig. 1; col 6, line 25-65). Deaton also discloses the utilization of electronic POS terminals, and electronic credit card verification at the terminal (throughout the Deaton disclosure). Deaton further discloses mailing coupons to the user (col 7, lines 30-45).

Art Unit: 3622

Deaton does not explicitly disclose that the commerce transaction is an electronic commerce transaction. Deaton does not explicitly disclose utilizing the Internet or global communications.

However, Herschap discloses that it is old and well known to perform electronic commerce transactions, transition from retail/catalog arenas to network sales, deliver e-commerce products to users (Herschap [4]); that it is obvious or that 'various business models are well known' such as profit based or market share based (Herschap [2]); that it is old and well known to utilize the Internet or global communications to communicate with users (Herschap [4]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Herschap's old and well-known utilization of e-commerce and the Internet to Deaton's shopping and communicating/contacting the user. One would have been motivated to do this in order to sell more products and communicate/contact users more easily.

Claim 13: Deaton discloses the above. Deaton further discloses providing products to the user (throughout the Deaton disclosure). Deaton further discloses the utilization of POS, terminals, networks, remote terminals, remote POS terminals (Fig. 1; col 6, line 25-65). Deaton further discloses that user mailing address and telephone information is known (col 62, line 57-col 63, line 13).

Deaton does not explicitly disclose delivery of goods to the user.

However, it would be obvious that Deaton can utilize the known user mailing address information to deliver goods to the user.

Alternatively, Herschap discloses delivery of goods to the user (Herschap [4]).

Art Unit: 3622

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Deaton can utilize the known user mailing address information to deliver goods to the user. One would have been motivated to do this in order to provide the goods to the user in a manner convenient to the user.

4. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deaton (5,687,322) in view of Keeler (5,353,207).

Claims 3, 10: Deaton discloses the above. Deaton discloses optimizing/increasing sales/profits (see rejection and citations above). Deaton further discloses varying the inducement (see rejection and citations above). Deaton does not explicitly disclose that the step of providing a commerce model comprises providing a non-linear commerce model.

However, Keeler providing a commerce model comprises providing a non-linear commerce model (col 1, line 5-col 3, line 35).

Keeler further discloses that the step of varying the inducement comprises:

providing an inverse model, which inverse model comprises the inverse of the commercial model;

receiving on the output of the inverse model an error value determined as the error between a desired value and the predicted output of the commerce model and generating an increment to the inducement;

incrementing by the determined increment the input value to the commerce model of the inducement value;

Art Unit: 3622

iteratively processing information through the inverse model until the predicted output of the commerce model is within defined boundaries defined by predetermined optimization; and providing the final iterated value of the inducement value as the varied inducement value to the user (Keeler, Figures 1, 2, 7a; Abstract; col 3, line 40-col 4, line 37).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Keeler's non-linear optimization to Deaton's inducing a customer and optimizing sales/profits. One would have been motivated to do this in order to better increase sales/profits.

### *Conclusion*

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Keeler (5,729,661) discloses preprocessing procedures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Arthur Duran  
Primary Examiner  
11/27/2006